



PATENT
Customer No. 22,852
Attorney Docket No. 7883.0011-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Peter J. WILK et al.) Group Art Unit: 3762
)
Application No.: 09/828,794) Examiner: P. BIANCO
)
Filed: April 10, 2001)
)
For: LEFT VENTRICULAR CONDUIT)
WITH BLOOD VESSEL GRAFT)

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TECHNOLOGY CENTER R3700

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Sir:

Petitioner ("Assignee") Percardia, Inc., duly organized under the laws of the State of Delaware and having its principal place of business at 10 Al Paul Lane, Suite 202, Merrimack, New Hampshire 03054, through its attorneys, represents that it is the only assignee of the entire right, title, and interest in and to the above-identified application, U.S. Patent Application No. 09/828,794, filed April 10, 2001, for LEFT VENTRICULAR CONDUIT WITH BLOOD VESSEL GRAFT, as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 10468, Frame 0027, and is and at all times was the only assignee of U.S. Patent No. 6,254,564 B1, issued July 3, 2001, for LEFT VENTRICULAR CONDUIT WITH BLOOD VESSEL GRAFT, also as

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

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indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 10468, Frame 0027.

To obviate a double patenting rejection, Assignee hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified U.S. Patent Application No. 09/828,794, which would extend beyond the expiration date of U.S. Patent No. 6,254,564 B1 and hereby agrees that any patent so granted on the above-identified U.S. Patent Application No. 09/828,794 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,254,564 B1. This agreement runs with any patent granted on the above-identified U.S. Patent Application No. 09/828,794 and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the above-identified U.S. Patent Application No. 09/828,794 that would extend beyond the expiration date of the full statutory term, as defined in 35 U.S.C. §§ 154 to 156 and 173, of U.S. Patent No. 6,254,564 B1, as shortened by any terminal disclaimer, in the event that U.S. Patent No. 6,254,564 B1 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$55.00 is being filed with this Terminal Disclaimer.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

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If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 31, 2003

By: 

Leslie I. Bookoff
Reg. No. 38,084

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com